

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE ENROLLED ACT No. 1578

AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-13-9-2, AS AMENDED BY HEA 1371-1999, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

Sec. 2. (a) Each officer designated in section 1 of this chapter may invest or reinvest any funds that are held by the officer and available for investment in any of the following:

(1) Securities backed by the full faith and credit of the United States Treasury or fully guaranteed by the United States and issued by any of the following:

- (A) The United States Treasury.
- (B) A federal agency.
- (C) A federal instrumentality.
- (D) A federal government sponsored enterprise.

(2) Discount notes issued by any of the following:

- (A) A federal agency.
- (B) A federal instrumentality.
- (C) A federal government sponsored enterprise.

(b) If an investment under subsection (a)(1) is made at a cost in excess of the par value of the securities purchased, any premium paid for the securities shall be deducted from the first interest received and

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returned to the fund from which the investment was purchased, and only the net amount is considered interest income.

(c) The officer making the investment may sell any securities acquired and may do anything necessary to protect the interests of the funds invested, including the exercise of exchange privileges which may be granted with respect to maturing securities in cases where the new securities offered in exchange meet the requirements for initial investment.

(d) The investing officers of the political subdivisions are the legal custodians of securities under this chapter. They shall accept safekeeping receipts or other reporting for securities from:

- (1) a duly designated depository as prescribed in this article; or
- (2) a financial institution located either in or out of Indiana having custody of securities with a combined capital and surplus of at least ten million dollars (\$10,000,000) according to the last statement of condition filed by the financial institution with its governmental supervisory body.

(e) The state board of accounts may rely on safekeeping receipts or other reporting from any depository or financial institution.

(f) In addition to any other investments allowed under this chapter, an officer of a conservancy district located in a city having a population of more than four thousand three hundred (4,300) but less than four thousand six hundred (4,600) may also invest in:

- (1) municipal securities; and
- (2) equity securities;

having a stated final maturity of any number of years or having no stated final maturity. The total investments outstanding under this subsection may not exceed twenty-five percent (25%) of the total portfolio of funds invested by the officer of a conservancy district. However, an investment that complies with this subsection when the investment is made remains legal even if a subsequent decrease in the total portfolio invested by the officer of a conservancy district causes the percentage of investments outstanding under this subsection to exceed twenty-five percent (25%).

(g) In addition to any other investments allowed under this chapter, a clerk-treasurer of a town with a population of more than four thousand (4,000) but less than five thousand (5,000) in a county having a population of more than seventy-five thousand (75,000) but less than seventy-eight thousand (78,000) may also invest money in a host community agreement future fund established by ordinance of the town in:

- (1) municipal securities; and**

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(2) equity securities;
having a stated final maturity of any number of years or having no stated final maturity. The total investments outstanding under this subsection may not exceed twenty-five percent (25%) of the total portfolio of funds invested by the clerk-treasurer of a town. However, an investment that complies with this subsection when the investment is made remains legal even if a subsequent decrease in the total portfolio invested by the clerk-treasurer of a town causes the percentage of investments outstanding under this subsection to exceed twenty-five percent (25%).

SECTION 2. IC 5-13-9-5.6, AS AMENDED BY HEA 1371-1999, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5.6. Except for investments allowed under section 2(f) **or 2(g)** of this chapter, investments made under this chapter must have a stated final maturity of not more than:

- (1) five (5) years for a conservancy district located in a city having a population of more than four thousand three hundred (4,300) but less than four thousand six hundred (4,600); ~~or~~
- (2) five (5) years for investments made from a host community agreement future fund established by ordinance of a town with a population of more than four thousand (4,000) but less than five thousand (5,000) in a county having a population of more than seventy-five thousand (75,000) but less than seventy-eight thousand (78,000); or**
- ~~(2)~~ **(3)** two (2) years for a **fund or** political subdivision not described in subdivision (1) **or (2);**

after the date of purchase or entry into a repurchase agreement.

SECTION 3. IC 13-11-2-148 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: Sec. 148. (a) "Operator", for purposes of IC 13-18-10, means the person in direct or responsible charge or control of one (1) or more confined feeding operations.

(b) "Operator", for purposes of IC 13-18-11 and environmental management laws, means the person in direct or responsible charge and supervising the operation of:

- (1) a water treatment plant;
- (2) a wastewater treatment plant; or
- (3) a water distribution system.

(c) "Operator", for purposes of IC 13-20-6, means a corporation, a limited liability company, a partnership, a business association, a unit, or an individual who is a sole proprietor that is one (1) of the following:

- (1) A broker.



(2) A person who manages the activities of a transfer station that receives municipal waste.

(3) A transporter.

(d) "Operator", for purposes of IC 13-23, except as provided in subsection (e), means a person:

(1) in control of; or

(2) having responsibility for;

the daily operation of an underground storage tank.

(e) "Operator", for purposes of IC 13-23-13, does not include **the following:**

(1) A person who:

~~(1)~~ (A) does not participate in the management of an underground storage tank;

~~(2)~~ (B) is otherwise not engaged in the:

~~(A)~~ (i) production;

~~(B)~~ (ii) refining; and

~~(C)~~ (iii) marketing;

of regulated substances; and

~~(3)~~ (C) holds evidence of ownership, primarily to protect the owner's security interest in the tank.

(2) A person who:

(A) does not own or lease, directly or indirectly, the facility or business at which the underground storage tank is located;

(B) does not participate in the management of the facility or business described in clause (A); and

(C) is engaged only in:

(i) filling;

(ii) gauging; or

(iii) filling and gauging;

the product level in the course of delivering fuel to an underground storage tank.

SECTION 4. IC 13-23-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Each year the owner of an underground storage tank that has not been closed before July 1 of any year under:

(1) rules adopted under IC 13-23-1-2; or

(2) a requirement imposed by the commissioner before the adoption of rules under IC 13-23-1-2;

shall pay to the department of state revenue an annual registration fee.

(b) The annual registration fee required by this section is as follows:

(1) ~~Two hundred~~ Ninety dollars ~~(\$290)~~ (\$90) for each



underground petroleum storage tank.

(2) Two hundred forty-five dollars (\$245) for each underground storage tank containing regulated substances other than petroleum.

(c) If an underground storage tank consists of a combination of tanks, a separate fee shall be paid for each tank.

SECTION 5. IC 13-23-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The department of state revenue shall collect fees paid under this chapter and deposit the fees as follows:

(1) Fees paid in connection with underground petroleum storage tanks shall be deposited as follows:

(A) ~~Two hundred~~ Forty-five dollars (~~\$245~~) (\$45) shall be deposited in the excess liability trust fund.

(B) Forty-five dollars (\$45) shall be deposited in the petroleum trust fund.

(2) Fees paid in connection with underground storage tanks used to contain regulated substances other than petroleum shall be deposited as follows:

(A) Forty-five dollars (\$45) shall be deposited in the hazardous substances response trust fund.

(B) Two hundred dollars (\$200) shall be deposited in the excess liability trust fund.

SECTION 6. IC 13-23-13-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. (a) Notwithstanding any other provision of this chapter, a person who is not an owner or operator of an underground storage tank is liable to the state only for corrective action to address a surface spill or overfill of a regulated substance from the underground storage tank that is intentionally caused by the person during the delivery of the regulated substance into the underground storage tank.**

(b) A person who is liable for corrective action under subsection (a) is subject to a claim for contribution to corrective action costs arising solely from the surface spill or overfill by a person described in section 8(b)(1) or 8(b)(2) of this chapter. Except as otherwise provided in subsection (c) and (d), an action for contribution under this section may be brought in the same manner and is subject to the same provisions as an action brought under section 8(b) of this chapter.

(c) Before a person brings a contribution action under this section, the person must provide written notice of intent to bring



the action by certified mail to:

- (1) the department; and
- (2) each person allegedly responsible for the surface spill or overfill that occurred during the delivery of a regulated substance into the underground storage tank.

(d) A person that provides notice under subsection (c) may not bring a contribution action if:

- (1) the department commences an administrative proceeding or a civil action concerning the alleged surface spill or overfill not later than ninety (90) days after receiving notice under subsection (c)(1); or
- (2) the person who receives the notice under subsection (c)(2) agrees in writing, within ninety (90) days after receipt of the notice, to remediate the surface spill or overfill in accordance with the state's rules governing spills and overfills.

SECTION 7. [EFFECTIVE UPON PASSAGE] (a) IC 13-23-12-1 and IC 13-23-12-4, both as amended by this act:

- (1) apply to all annual registration fees assessed after June 30, 1999; and
- (2) do not apply to annual registration fees that:
 - (A) were assessed on July 1, 1998; and
 - (B) are due to be paid after July 1, 1998.
- (b) This SECTION expires July 1, 2000.

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) For funds established under IC 13 to provide a source of money for a specified purpose, the department of environmental management together with the environmental quality service council shall conduct a study to evaluate different approaches for determining the allocation of the costs of all departmentwide services that support the funds.

(b) Not later than November 1, 2000, the environmental quality service council shall make written recommendations based on the findings of the study conducted under subsection (a) to the:

- (1) legislative council; and
- (2) budget agency.

(c) This SECTION expires December 31, 2000.

SECTION 9. [EFFECTIVE UPON PASSAGE] (a) The environmental quality service council shall:

- (1) review the hazardous waste manifest program described in IC 13-22-4; and
- (2) make legislative recommendations based on the study conducted under subdivision (1), if appropriate.



(b) This SECTION expires January 1, 2000.

SECTION 10. [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)] IC 13-11-2-148(e), as amended by this act, shall not be construed to affect any litigation filed before January 1, 1999.

SECTION 11. An emergency is declared for this act.

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